

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Jason Alan Hertzog,	)	
	)	C/A No. 8:05-1776-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	<b>OPINION AND ORDER</b>
Horry County; Lt. Cunningham; Cpt.	)	
Susan Stafford; Major Joe Johnson;	)	
Director Tom Fox; Sheriff Phillip E.	)	
Thompson; Cpt. Hughes; Cpl. S.K. Jones;	)	
and LPN Debbie Hipp,	)	
	)	
Defendants.	)	
	)	

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Plaintiff Jason Alan Hertzog is an inmate in custody of the South Carolina Department of Corrections who currently is housed at Lieber Correctional Institution in Ridgeville, South Carolina. Plaintiff, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights.

This matter is before the court on motion for summary judgment filed by Defendants Horry County, Cunningham, Stafford, Johnson, Fox, Thompson, Hughes, and Jones on October 24, 2005. On October 25, 2005, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedure and the possible consequences if he failed to respond adequately. Also before the court is a motion for summary judgment filed by Defendant Hipp on November 4, 2005. A second Roseboro order was issued on November 7, 2005. Plaintiff filed a motion to dismiss Defendants' motions for summary judgment on November 29, 2005 and December 13, 2005, respectively.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. On June 1, 2006, the

Magistrate Judge issued a Report of Magistrate Judge in which she recommended that Defendants' motion for summary judgment be granted. Plaintiff filed no response to the Report of Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report of Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. Accordingly, Defendants' motions for summary judgment are granted. Plaintiffs' motions to dismiss are denied.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

June 30, 2006

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**